

## RAINES LAW FOR US, NOW.

**NEW ORDERS GIVEN TO THE POLICE  
LAST NIGHT.**

**No More Free Lunches or All-night Screen**  
**-Clubs Not Affected Before May 1-**  
**Corporation Counsel Interprets the Law**  
**-Must Park Restaurants Stop Selling**

The New York city police began to bustle yesterday to get into effect those clauses of the Haines law which, Corporation Counsel Scott advised them, take effect immediately. The set to work at once to inform liquor dealers that from now on:

- Free lunches must stop.
- Bars must not be screened from the street for the hours when sale is prohibited.
- Liquor must not be sold to persons under 18 years of age.

Furthermore the police were advised that:

- Licensed liquor-dealers may continue business under their licenses up to June 30 in some cases and up to April 30 in all cases.
- Police may make summary arrests for violations of the law in their presence.
- All-night licenses are good until they are cancelled.
- Police may close a saloon until June 30 whichever date comes first.

In detail, Chief Conklin asked whether the premises involved in the case were subject to the provisions of subdivisions "c" and "h" of section 31 of the law are now in force, or, if not, sections they will be. The first subdivision prohibits the sale of adulterated liquor or the giving away of food to persons on the premises, except on the part of any liquor dealer who has received notice not paid a tax. The question was directed particularly to the free lunch clause. Subdivision "h" is the one which requires the removal of any screen which obstructs a view from the street during hours when sales are prohibited.

As to this Mr. Scott says:

"The act in its forty-fifth section provides that the act shall be inoperative until January 1st, 1908."

have been unable to find anything within the lines of the law which warrants the opinion that the provisions of the act were intended to be therein were intended to be excepted from the operation of the act, or that the act was intended to be excepted from the operation of the act at which they were intended to be excepted from the operation of the act.

He quotes the first part of section 31, which prohibits the sale of liquor without first obtaining a license, and says that, "standing alone and strictly construed, it would prohibit the sale of liquor by any person until a tax certificate had been obtained." This would prohibit all sales of liquor without a license, and he says that, "under the law as it stands, it is the intention of the law Mr. Scott points out, by the provisions of the act providing that licenses shall be issued from the date of the passage of the act, 30, 1890, in some cases and until April 30 in all cases." He says:

"The purpose of these provisions was to avoid any interruption in the lawful sale of liquor."

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It is true that this provision is not in terms repeated in the Liquor Tax law, nor do I think it necessary that it should have been. The last sentence of section 37 evidently contemplates a person who is arrested for a violation of the act. I am therefore of opinion that the members of the police force have the same right and duty under this act that they have had under former laws to arrest without warrant persons who violate the law in their presence.

Section 37 seems to impose upon the members of the police force new and additional duties in respect to persons arrested for violation of this law. They must "immediately notify the District Attorney by a statement under oath of the

fact of such violation. This should, I think, be done in the case of every person arrested for such violation with a view to prosecution.

He suggests consultation with the District Attorney as to the form of such notification.

Another question from the Chief related to the right of holders of all-night licenses to continue to hold such licenses after the expiration of the provision for an all-night license in the Statutes law.

Mr. Scott quotes the fourth section of the Rainey law containing in effect licenses under the present law, and advises the Chief of Police that any such license remains in full force until cancelled, or until it expires, or until June 30, 1896, whichever date comes first.

The idea of continuing in effect the status of clubs as such is causing the pain of ordering it.

liquor by unauthorized persons or corporations," says Mr. Scott. "I am of the opinion that until May 1, 1890, the possession and posting of a tax certificate under the provisions of the present law are not requisite, but that the only inquiry to be made by the police is whether

the person or corporation, if required to hold a license under the excise law heretofore in force, does in fact hold such license."

Mr. Scott points out that the Court of Appeals has never passed on the question whether clubs came within the purview of the old excise law.

law; that the excise and police authorities have construed that statute in favor of the clubs, and have not required them to obtain licenses. From the construction, he says, there is respectable authority in other jurisdictions, and he adds:

"In my opinion the provisions of the new statute will not attach to clubs until May 1, being the earliest day upon which they can

being themselves within its provisions, and therefore until that time I do not deem it necessary for the police to insist that such associations or corporations shall take out temporary licenses under section 3 of the Tax law, nor do I think that the other restrictive provision of the new Tax law should be held to apply to

them, we believed or not such organizations would be able to pay the tax after May 1, 1930. It is not now necessary to determine the exact date of the termination. Doubtless that question will be judicially determined by a proceeding under section 22 of the new act, which provides for a refund of the tax paid. It is not necessary to prevent a person from trafficking in liquor without having first obtained a tax certificate."

Mr. Scott advised that this opinion is not to be understood as covering the case of a club operating for the express purpose of violating the prohibition laws.

The Corporation Counsel did not say so in his reply to Chief Conlin, but he said that it is his belief that the right of a social club to sell liquor to its members is an essential attribute so far as a social club is concerned until the club pays a tax.

liquor tax. His contention is that the only remedy of excise officials, if a club should refuse to buy a tax certificate, is to sue for the tax. After a club had been provided for in the law, it would be impossible for the excise board to inquire, if it could be proven that the club had violated the order, it could be punished as for contempt of court.

Mr. J. H. Connelley, Counsel's opinion, by the breadth of its declaration that the police and restrictive features of the bill are in effect, have replaced those of the repealed laws, made it pretty certain that the bill would pass. The bill was passed by the House and McClellan's Pass Tavern in Central Park, and the argument in Riverside Park, in violation of the law ever since the law was filed in the

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